

Friday, July 15, 2016

The Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, met in a special session at 9:00 AM.

PRESENT: Supervisors: Frank R. Mecham, Bruce S. Gibson, Adam Hill, Debbie Arnold and Chairperson Lynn Compton

ABSENT: None

THE PLEDGE OF ALLEGIANCE IS LED BY CHAIRPERSON LYNN COMPTON.

Hearings:

1. Hearing to consider an interim zoning/urgency ordinance prohibiting the clear-cutting of oak woodlands and limiting the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County, except for development or land use activities complying with certain authorization standards and procedures; exempt from CEQA. All Districts.

Ms. Megan Martin– Planning and Building: provides the staff presentation (powerpoint).

Board Members: question the process and timing for urgency and permanent ordinances; and the definition of clear-cutting, with Mr. Jay Johnson – Planning and Building and Ms. Whitney McDonald – Deputy County Counsel responding.

Chairperson Compton: opens the floor to public comment.

Mr. Eric Greening; Mr. John Chesnut – California Native Plant Society (powerpoint); Ms. Mary Bianchi – UC Cooperative Extension and Farm Advisor; Mr. Gary Kirkland; Mr. Mark Wiberg (video); Mr. Bill Pelfrey; Mr. Patrick McGibney; Ms. Nancy Dodd; Mr. Raymond Dodd Jr.; Ms. Kelli Silzer; Ms. Susan Adams; Ms. Diane Burkhart; Mr. David Chipping - California Native Plant Society Conservation Chairperson; Mr. Mike Bonnheim; Ms. Tessa Cain; Ms. Amber Torrey – Central Coast Stewardship Society; Dr. C. Hite; Ms. Gwen Pelfrey; Mr. Neil Havlik – California Wildlife Foundation previously known as the California Oak Foundation; Ms. Linda Chipping; Ms. Susan Bernstein; Ms. Anna Negranti - Farm Bureau Vice-President; Mr. Greg Grewal; Mr. Charles Kleeman – Margarita Proud; Ms. Bettina Salter; Dr. Susan Robinson; Mr. Nic Mattson (letter); Ms. Lila Avery-Fuson; Mr. Mike Brown – Coalition of Labor, Agriculture and Business (COLAB); Ms. Sue Dokulil; Mr. Chuck Pritchard; Mr. Kevin Riley; Ms. Kathy Stone; Ms. Alice Griselle; Mr. Neil Heaton; Mr. Dave Osgood; Ms. Carol Dehart; Mr. Devin Best – Upper Salinas - Las Tablas Resource Conservation District Executive Director; Mr. Mark Adams; and Ms. Claire Mamakos: speak.

Staff: responds to matters raised in public comment.

Board Members: discuss exempting parcels with a conservation easement; the acreage of trees that can be removed based on the total site canopy; the proposed urgency ordinance criteria; the use of “parcel” in place of “site”; and various processes regarding a tree removal request, CEQA review, and land conversion, with Mr. Johnson, Mr. Art Trinidad – Planning and Building; Mr. Marc Lea – Ag Deputy Commissioner; and Ms. McDonald responding.

Supervisor Mecham and Chairperson Compton: speaks to the need to protect those who are doing the right thing, with Mr. James Bergman stating as the Planning and Building Director, is aware of the importance to balance the protection of resources and also allow property owners to do what they need on their land; and as this move forward, his interpretation of the urgency ordinance will be essential, with Board members responding.

A motion by Supervisor Arnold, to pass the urgency ordinance with the following exceptions: under Section 2 – Definitions: subsection H, removing “Grey Pine”; subsection K, removing “or with the contiguous owners’ written consent” from the middle of the sentence; under Section 5 – Exemptions: subsection C, removing “as verified by the County or a County-approved tree consultant” from the first sentence to provide land owners with the flexibility to manage their own land; subsection G, adding “During rangeland conversion” to the beginning of the section and

removing “land management purposes”, adding a new subsection G.4 to read “For land management purposes on rangeland, no more than twenty-five (25) percent of the native canopy will be removed” to put a cap on rangeland management; and subsection J.2, removing “grazing” from the second sentence to separate crop production from grazing land, dies for a lack of a second.

Supervisor Gibson: speaks to the Ag Liaison Boards’ supports to the urgency ordinance with reasonable modifications; and that within the 45 day of this urgency ordinance, staff can work on the impacts that may affect property owners.

On motion by Supervisor Gibson, seconded by Supervisor Hill, to approve the urgency ordinance with the following changes: under Section 2 – Definitions: revise the definition of “site”, subsection K, removing “or with the contiguous owners’ written consent” from the middle of the sentence; limit a site to an individual parcel; and add an exemption for properties covered by a conservation easement that includes a native tree management plan, is discussed.

Supervisor Arnold: clarifies what she meant by changing “site” to “parcel” is under Section 5 – Exemptions, subsection G.1; states she cannot support the motion without mitigating the process for a land owner to remove a diseased tree; and consider her language changes under Section 5 – Exemptions, subsection G regarding agricultural operations, with Mr. Trinidad, Mr. Bergman and Board Members responding.

The motion maker modifies the motion on the floor to remove the parcel site language; remove the language that requires a pre-approved consultation with the county to remove a diseased tree; and adds a provision that evidence, at some point, needs to be provided to the county that the removed tree was diseased, with the second concurring and Board Members responding.

Chairperson Compton: states she wants to remove the subjective and “fluffy” language from the ordinance, with Mr. Gibson and Ms. Rita Neal – County Counsel responding.

The motion maker restates his motion is to approve the urgency ordinance as presented with the following changes: add an exemption for properties covered by a conservation easement that includes a native tree management plan; modify the exemption for diseased trees by removing the language that requires a pre-approved consultation with the county and add a provision that evidence, at some point, needs to be provided to the county Director of Planning and Building that the removed tree was diseased; under Section 2 – Definitions: subsection K, remove “or with the contiguous owners’ written consent” from the middle of the sentence; and re-number subsequent sections, is discussed.

Chairperson Compton: states she does not want the permanent ordinance to be as restrictive as this urgency ordinance.

Mr. Bonnheim: speaks to the requirement of no more than five percent of canopy per site that can be removed, per Supervisor Arnold’s request. Furthermore, Supervisor Mecham asks the motion maker to amend the motion to not require a management plan for properties exempt under a conservation easement, with the motion maker suggesting within the 45-day duration of this urgency ordinance, he and Chairperson Compton work with Mr. Bonnheim on how the provisions of this urgency ordinance may affect his property.

Staff: recaps the amended language to the urgency ordinance, with the motion maker and the second agreeing to the changes outlined by staff.

The Board amends the ordinance as follows: Section 2 – Definitions: subsection K, “or with the contiguous owners’ written consent” is removed from the sentence; Section 5 – Exemption: subsection C, “by the County or a County approved tree consultant” is replaced to read “at a reasonable time either before or after the removal by the Director of Planning and Building”; adds a new subsection K to read “Conservation Easement. Sites under conservation or open space easement that provides for the management of Native Trees or Oak Woodland pursuant to a management plan.”; and subsequent sections are numbered as Section 7 through 9. Furthermore, the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and ORDINANCE NO. 3325, an interim zoning/urgency ordinance of the County of San Luis Obispo prohibiting the clear-cutting of oak woodlands and limiting the removal of native trees in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County,

except for development or land use activities complying with certain authorization standards and procedures, adopted as amended.

Motion by: Bruce S. Gibson
Second by: Adam Hill

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Compton, Lynn (Chairperson)	x			
Hill, Adam (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Arnold, Debbie (Board Member)		x		

2. Hearing to consider an interim zoning/urgency ordinance prohibiting new agricultural ponds and reservoirs in the inland area (does not include the coastal zone) of the unincorporated portions of San Luis Obispo County, except for projects complying with certain permitting procedures and development restrictions; exempt from CEQA. All Districts.

Mr. Airlin Singewald – Planning and Building: provides the staff presentation (powerpoint).

Board Members: address pond permitting requirements, setbacks, water supply impacts; the CEQA and alternative review process; the number of reservoir projects currently in the pipeline; the application content listed in the proposed ordinance; exempting stock ponds; and a Memorandum by the Resources Conservation District (RCD) Technical Advisory Committee, with Mr. Singewald; Mr. Steve McMasters; Mr. Bill Robeson; and Ms. Lynda Auchinachie – Planning and Building responding. Additionally, Chairperson Compton, states her concerns penalizing everyone because of one bad action; questions the contemplated amendment language in Finding F; doesn’t want to put anything in place that restricts legitimate uses; and questions why this ordinance language is not “fluffy” like the previous urgency ordinance, with Ms. Whitney McDonald – Deputy County Counsel and Ms. Rita Neal – County Counsel responding.

Chairperson Compton: opens the floor to public comment.

Mr. Donald Waller; Dr. C. Hite; Mr. John Chesnut; Ms. Tessa Cain; Ms. Patricia Wilmore - Paso Robles Wine Country Alliance; Mr. John Wallace; Ms. Diane Burkhart; Ms. Cindy Hansen; Ms. Diane King; Mr. William Cain; Mr. Bill Pelfrey; Ms. Stacy Haze – San Luis Obispo County CattleWomen Association; Mr. Kevin Riley; Mr. Neil Heaton; Mr. David Osgood; Mr. Greg Grewal; Ms. Anna Negranti - Farm Bureau Vice-President; Ms. Claire Wineman – Grower-Shipper Association of Santa Barbara and San Luis Obispo Counties, President; Ms. Gwen Pelfrey; Mr. Mike Brown – Coalition of Labor, Agriculture and Business (COLAB); and Ms. Melissa Mooney: speak.

Board Members: discuss their concerns regarding the urgency ordinance not being ready for adoption as presented; not having an good understanding of RCD’s alternative review process; the need to tighten the analysis and approval criteria; re-think how to handle ag ponds with grading permit applications; and the need to explore every aspect of water use in the county, with Mr. Singewald; Mr. Robeson, Ms. McDonald, and Ms. Neal responding.

A discussion occurs regarding amending the proposed urgency ordinance to remove new ag ponds from the alternative review program.

On motion by Supervisor Gibson, seconded by Supervisor Mecham, to adopt an urgency ordinance that contains provisions to remove the review of ag ponds, reservoirs or basins from the alternative review process; require that applications have the application content (Section 6. D.) as listed in the proposed urgency ordinance; keep the peer review requirement (Section 6. F.); and direct staff to bring back a description of their CEQA analysis guidelines for any pond application, is discussed. Furthermore, Board Members and staff review the appropriate language changes for the urgency ordinance.

The Board amends the proposed urgency ordinance as follows: the title is replaced to read “An interim zoning/urgency ordinance of the County of San Luis Obispo prohibiting approval of new agricultural ponds and reservoirs in the inland area of the unincorporated county (does not include the coastal zone) under the alternative review program”; Section 1 – Findings and Declarations:

Finding E. is replaced to read “Currently, the County’s Land Use Ordinance (Title 22 of the County Code) allows for agricultural ponds and reservoirs to be constructed with grading permit approval and pursuant to an Alternative Review Program administered by a Natural Resource Conservation Service (NRCS) or the Resource Conservation District. Agricultural ponds and reservoirs with a water storage capacity greater than one acre foot are subject to environmental review under CEQA and are approved administratively without a public hearing or notification to adjacent landowners. Recently, a large individual agricultural pond was permitted to proceed pursuant to the Alternative Review Program that created significant concern by neighboring well owners regarding potential impacts to their water supply. Based on the recent rates of decline of water levels in the county and the reported increase in incidences of well failures within the county, continuing to allow the construction of agricultural ponds and reservoirs under the existing Land Use Ordinance without direct oversight and review by the County poses a current and immediate threat to the people, species, and environs within the county, and to the public, health, and welfare as a whole.”; and Finding F, “without direct County review and oversight” is added to the second sentence between the words “county” and “would”; Section 2 – Definitions: B through H are removed and a new definition B is added to read ““Agricultural Ponds, Reservoirs, or Basins”, for the purposes of this Ordinance, includes agricultural ponds, reservoirs, or basins filled with pumped ground water. Does not include stock ponds, livestock ponds, or other ponds filled with surface water runoff.”; Section 4 – Prohibitions is replaced to read “The development of any new agricultural pond, reservoir, or basin filled with pumped well water shall not be approved under the Alternative Review Program, notwithstanding County Code Section 22.52.080. All agricultural ponds, unless exempt under Section 22.52.080, would be subject to major grading permit approval.”; Section 5 - Exemptions is removed and subsequent sections are renamed Section 5 through 8; Section 5 - Permitting (previously 6): subsections A through C, E, H, and K are removed; subsequent subsections are renamed as A (previously D), B (previously F), C (previously G), D (previously I), and E (previously J); subsection A (previously D), “Application Content. Land Use” is replaced with “Major Grading”; and subsection D (previously I), is replaced to read “Management Strategies. Agricultural reservoirs, ponds, and basins shall incorporate management strategies to minimize evaporative water loss.” Furthermore, the reading of the proposed ordinance is waived and said proposed ordinance is read by title only and **ORDINANCE NO. 3326, An interim zoning/urgency ordinance of the County of San Luis Obispo prohibiting approval of new agricultural ponds and reservoirs in the inland area of the unincorporated county (does not include the coastal zone) under the alternative review program, adopted as amended.**

Motion by: Bruce S. Gibson
Second by: Frank R. Mecham

SUPERVISORS	AYES	NOES	ABSTAIN	RECUSE
Compton, Lynn (Chairperson)	x			
Hill, Adam (Vice Chairperson)	x			
Mecham, Frank R. (Board Member)	x			
Gibson, Bruce S. (Board Member)	x			
Arnold, Debbie (Board Member)	x			

[**Clerks Note:** upon executing the amended urgency ordinance after the meeting, staff found a typographical error in the last sentence under the added Section 4. Prohibition. The County Code referenced should read “Section 22.52.070” not Section “22.52.080”.

On motion duly made and unanimously carried, the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts, does now adjourn.

I, **TOMMY GONG**, County Clerk-Recorder and Ex-Officio Clerk of the Board of Supervisors of the County of San Luis Obispo, and ex-officio clerk of the governing body of all other special assessment and taxing districts for which said Board so acts, do hereby certify that the foregoing is a fair statement of the proceedings of the meeting held Friday, July 15, 2016, by the Board of Supervisors of the County of San Luis Obispo, and ex-officio the governing body of all other special assessment and taxing districts for which said Board so acts.

TOMMY GONG, County Clerk-Recorder and Ex-Officio Clerk of the

Board of Supervisors

By: /s/ Annette Ramirez, Deputy Clerk-Recorder

DATED: July 25, 2016